

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

JOSEPHINE T. BELLUM and KAREN A. :
BISTREK, on behalf of themselves and others :
similarly situated, : Civil Action No.: 2:15-cv-02460-CDJ
:
Plaintiffs, :
:
v. :
:
THE LAW OFFICES OF FREDERIC I. :
WEINBERG & ASSOCIATES, P.C., :
:
Defendant. :

**PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Josephine T. Bellum and Karen A. Bistrek (together, “Plaintiffs”) move this Court for (i) preliminary approval of the parties’ class action settlement agreement in this matter; (ii) conditional certification of the proposed class for settlement purposes only; (iii) their appointment as class representatives; (iv) their counsel’s appointment as class counsel; and (v) distribution of the class notice submitted herewith. In support thereof, Plaintiffs state as follows:

1. Plaintiffs filed their class action complaint against The Law Offices of Frederic I. Weinberg & Associates, P.C. (“Defendant”) on May 4, 2015, alleging violations of section 1692g(a)(4) of the Fair Debt Collection Practices Act (“FDCPA”) with respect to initial debt collection letters that it sent to consumers on behalf of Bank of America, N.A.

2. More specifically, Plaintiffs allege that Defendant failed to provide proper disclosures mandated by the FDCPA regarding how consumers may dispute the validity of the debts they are alleged to owe, and how those consumers can obtain verification of the legitimacy of those debts from Defendant. Plaintiffs' and the class's claims thus hinge on whether the disclosures contained in Defendant's standardized initial debt collection letter run afoul of the

FDCPA. Defendant denies any liability, or that its practices violated the FDCPA.

3. Notwithstanding, after weeks of negotiations leading up to a scheduled settlement conference before Judge Sitarski, the parties notified this Court on January 26, 2015 that they had reached an agreement in principle on a class-wide resolution of this action. ECF No. 25.

4. As memorialized in the parties' Class Action Settlement Agreement ("Agreement"),¹ Defendant will create a common fund for the benefit of the settlement class in the amount of \$9,710.00, resulting in cash payments of approximately \$10.00 to each member of the settlement class who does not timely exclude himself or herself. Of note, the class's recovery here exceeds the class-wide statutory damages allowed by the FDCPA, which are capped by statute at one percent of Defendant's net worth.

5. Defendant also will pay—separate and apart from the monies paid to class members, and subject to Court approval—full statutory damages of \$1,000.00 each to Ms. Bellum and Ms. Bistrek, as well as class counsel's attorneys' fees and expenses² and the cost of administering the settlement and providing direct mail notice to all class members.

6. Importantly, Defendant also has confirmed in writing that it no longer uses the form debt collection letter that was sent to Plaintiffs and which gave rise to this litigation. This change in Defendant's practices will benefit not only Plaintiffs and the settlement class, but also all other consumers who may encounter Defendant's debt collection efforts in the future.

7. As this settlement provides a very favorable result to all class members, Plaintiffs

¹ The Agreement is submitted concurrently herewith as an attachment to the Declaration of Jesse S. Johnson in Support of Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement.

² Though the parties have yet to agree on an exact figure for counsel's fees and expenses, Defendant has agreed not to oppose an award of up to \$20,000, and Plaintiffs have agreed not to seek more than \$30,000 in fees and expenses.

respectfully request that this Court grant preliminary approval of the Agreement, certify the proposed class for settlement purposes, appoint Ms. Bellum and Ms. Bistrek as class representatives, appoint their counsel as class counsel, and direct notice of the settlement to members of the settlement class.

8. The settlement class consists of 971 Pennsylvania consumers who received materially identical initial debt collection letters from Defendant. Given its composition, the class is sufficiently numerous such that joinder is impracticable. Further, questions of law and fact are common to the class and predominate over any potentially individualized inquiries. Plaintiffs' claims are typical of those of absent class members, and they have served the class's interests well throughout this litigation.

9. Moreover, Plaintiffs' counsel have extensive experience in class action litigation, including consumer protection class actions such as this, and thus are eminently qualified to serve as class counsel here. And numerous courts nationwide have recognized that the class action vehicle is the superior method for adjudicating class members' claims arising out of form debt collection letters that are alleged to have violated the FDCPA.

10. The parties' proposed settlement here calls for an ample direct mail notice program administered by an experienced third-party class administrator, using Defendant's own records to obtain the addresses for all consumers to whom it sent the form debt collection communication at the heart of this suit.

11. In sum, Plaintiffs and their counsel are proud of the excellent result reached here for the class. They recommend approval of this settlement as fair, reasonable, and adequate.

12. Defendant does not oppose the relief requested herein.

WHEREFORE, for the reasons stated herein and as set forth in the accompanying

memorandum of law, Plaintiffs respectfully request that the Court grant their unopposed motion for preliminary approval of the class action settlement, and enter the proposed order submitted concurrently herewith.

DATED: March 9, 2016

Respectfully submitted,

/s/ Jesse S. Johnson

Jesse S. Johnson (*pro hac vice*)

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Counsel for Plaintiffs and the proposed class

CERTIFICATE OF NON-OPPOSITION

I hereby certify that counsel for the parties conferred regarding the instant motion, and that Defendant does not oppose the relief requested herein.

/s/ Jesse S. Johnson

Jesse S. Johnson

CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2016, I electronically filed a copy of the foregoing with the Court using the Clerk of Court's CM/ECF system, which will provide notice to all counsel of record.

/s/ Jesse S. Johnson
Jesse S. Johnson